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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,972	08/29/2001	Yoshihide Murakami	213338	7743

23460 7590 03/21/2003

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EXAMINER
REDDICK, MARIE L

ART UNIT	PAPER NUMBER
1713	/0

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

HG

Advisory Action	Application No.	Applicant(s)	
	09/941,972	MURAKAMI ET AL.	
	Examiner	Art Unit	
	Judy M. Reddick	1713	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 February 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *NONE*.

   Claim(s) objected to: *NONE*.

   Claim(s) rejected: *1-16*.

   Claim(s) withdrawn from consideration: *NONE*.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☒ Other: *See Continuation Sheet*

J. M. Reddick

Judy M. Reddick
Primary Examiner
Art Unit: 1713

Continuation of 5. does NOT place the application in condition for allowance because: it is urged and maintained that the rejection of the instantly claimed invention under 35 USC 102(b) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Shirai et al for reasons stated per paper no. 8, 12/27/02 is deemed proper.

Continuation of 10. Other: While Counsel is arguing that Shirai et al do not recognize that the disclosed adhesive composition, because of a high moisture permeability, allows the skin to remain dry and allows the adhesive composition to remain adhered to the skin that is wet with perspiration, Counsel is cordially reminded that when the compositions are not novel they are not rendered patentable by the recitation of properties, whether or not these properties are shown or suggested in the prior art, i.e., it is well settled that when a claimed product reasonably appears to be substantially the same as a product disclosed in the prior art, the burden of proof is on applicants to prove that the prior art product does not inherently or necessarily possess the characteristics attributed to the claimed products as provided for under the guise of In re Spada, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658(Fed. Cir. 1990) .